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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,250	09/06/2000	Ludovic Pierre	5266-02600	9855
44015	7590	02/03/2009	EXAMINER	
OPTV/MEYERTONS			SHANG, ANNAN Q	
RORY D. RANKIN				
P.O. BOX 398			ART UNIT	PAPER NUMBER
AUSTIN, TX 78767-0398			2424	
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			02/03/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* LUDOVIC PIERRE,  
THIERRY GODIN,  
RAMA KALLURI,  
AND JINO NGUYEN

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Application No. 09/657,250  
Technology Center 2152

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Mailed: February 3, 2009

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Before DELORES LOWE, *Review Team Paralegal*  
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 22, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

**APPEAL BRIEF, GROUNDS OF REJECTION**

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed August 27, 2007 under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that the examiner has not indicated the grounds of rejection of claim 27; whereas Appellants have indicated the grounds of rejection of claim 27 being rejected under 35 U.S.C. § 103(a) as being unpatentable over Lawler, in view of Pohlmann, in view of Warwick and in view of Sudhakaran. Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

**EXAMINER'S ANSWER, GROUNDS OF REJECTION**

A review of the file indicates that the Examiner's Answer filed January 2, 2008 does not comply with the guidelines provided in MPEP § 1207.02 because it refers, either directly or indirectly, to a prior Office action *without fully restating the point relied upon in the answer*. If there is a complete and thorough development of the issues in a prior action, the examiner may copy any referenced prior rejection(s) from the prior Office action into the examiner's answer. The examiner is reminded to reevaluate his or her prior position in light of the arguments presented in the brief, and should expressly withdraw any rejections not adhered to in the "Grounds of Rejection Withdrawn" section of the examiner's answer.

Therefore, a substitute examiner's answer which fully restates any prior points relied upon in the answer is required. *See also Manual of Patent Examining Procedure (MPEP) § 1207.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.*

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on August 27, 2007;
- 2) notify Appellants to file a paper properly addressing the Grounds of rejection of all claims;
- 3) to vacate the Examiner's Answer mailed January 2, 2008;
- 4) to generate a new Examiner's Answer which does not refer directly or indirectly to a prior Office action without fully restating the point relied on in the answer; and
- 5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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